IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7530 OF 2005

Himal Hareshbhai Mehta Applicant

versus

The State of Maharashtra Respondent

Rishi Bhuta and Devendra Udani for applicant.

S.S.Tatkare, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th November 2005

PC :

1. The applicant is arrested on 14th August 2005 for an offence punishable under section 489-B of the IPC.. Presently he is in judicial custody.

2. The prosecution case is that the complainant who is running a stall opposite Vasai Road Railway Station selling fruits and sandwiches happened to have the present applicant as a customer. He purchased four sandwiches and gave a currency note of Rs.100/- which the complainant discovered to be fake.

3. The complainant had seven more currency notes

of Rs.100/- at the relevant time. The complainant and his friend thereafter asked the applicant's name and address and took him to Manikpur Police Station. The notes were seized under a Panchanama. The matter was transferred to Vasai Road Railway Police Station where a FIR came to be lodged. During the course of the investigation one Rajnish Kanuga was arrested. Investigation was completed on 20th October 2005.

4. On 23rd September 2005 the co-accused in this very case has been granted bail by this Court.

5. The applicant moved an application for bail before the Sessions Court not only on the grounds of parity but on the ground that he had borrowed Rs.800/- from accused no.2. Eight currency notes of Rs.100/- each were given to the present applicant by accused no.2 as friendly loan. The applicant had no currency notes on his person except these eight notes. The applicant, therefore, contended that he had no knowledge as also no reason to believe that the eight seized notes were counter-feit. Apart from this, it was pointed out that the applicant is of 19 years aged. He has aged parents. He is working with a Diamond Merchant and earning his livelihood. The

entire investigation being complete and the applicant is willing to abide by all conditions. He has also no criminal antecedents, he deserves to be enlarged on bail.

6. The learned Sessions Judge has observed that the applicant does not deserve bail on account of parity. Eight currency notes were found in his possession. As far as other accused is concerned, the notes were not found in his possession. The learned Judge failed to appreciate that accused no.1 in this case is Rajnish Kanuga who is supposed to be the kingpin. It is he who is enlarged on bail by this Court. As far as present applicant is concerned, it is his specific case that eight currency notes were handed over to him as loan by accused no.1. If accused no.1 is entitled to be enlarged on bail with the conditions as imposed, rejection of the bail of the present applicant is unjustifiable. That apart, this is not a case, where the applicant who is in jail even after investigation is complete and charge sheet is filed, of misusing the protection. He is 19 years of age and working with a diamond merchant. He has no criminal antecedents. He is permanent resident of Vasai. The applicant is willing to abide all

those conditions as are imposed on other accused.

7. Accordingly following order :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.71/2005 registered with Vasai Road Railway Police Station, the applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.10,000/- with one local solvent surety in the like amount;

(ii) The bail is granted subject to condition that till the filing of the charge sheet, the applicant will attend the concerned Police Station on every Saturday and Sunday between 5.00 a.m. to 7.00p.m. and after filing of the charge sheet, the applicant will report to the concerned police station once in the fortnight;

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The applicant shall co-operate with the

Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)